



## **Austin City Council MINUTES**

**January 6, 1994**

**Mayor Todd called to order the meeting of the Council, noting the absence of Mayor Pro Tem Urdy and Councilmember Shea.**

### **APPROVAL OF MINUTES**

- 1. Approval of Minutes for Regular Meeting of December 9, and 16, 1993 and Special Meetings of November 3 (11:00 A.M. & 4:00 P.M.) and November 4, 17, 18 and 23, 1993**

**On Councilmember Garcia's motion, Councilmember Nofziger's second, 4-0 Vote, Councilmember Reynolds out of the room, Mayor Pro Tem Urdy and Councilmember Shea absent.**

### **CITIZEN COMMUNICATIONS: GENERAL**

- 2. Ms. Charlene Shillman, to wish everyone a wonderful 1994 from the Museum of Fine Arts, Austin. "Support the Museum." Absent**
- 3. Ms. Carol Nelson, to comment on the proposed amendments regarding the Smoking Ordinance.**
- 4. Ms. Shannon Boggus, to support the proposed Smoking Ordinance. Absent**
- 5. Ms. Gwen Hoffman, to discuss the smoking ordinance. Absent**
- 6. Mr. Bruce Walcutt, to discuss the smoking ordinance.**
- 7. Ms. Arlinda Branch, to discuss V.A. Benefits and discrimination. Absent**
- 8. Mr. Gavino Fernandez, to discuss closure of the Holly Power Plant and provide environmental justice to the barrio.**
- 9. Mr. Roberto Ramirez, to discuss the need for closing the Holly Power Plant.**

10. Mr. Robert Donley, to discuss environmental racism which is currently being practiced by the Council in regards to the Holly Power Plant.
11. Mr. Thomas Bailey, to discuss unfair termination by the City not following its own policy regarding personnel terminations.

**ITEMS CONTINUED FROM PREVIOUS MEETINGS**

12. Direct the Planning Commission, the Parks and Recreation Board and the Environmental Board to review and make recommendations to the City Council on projects envisioned for Zilker Park and on advisable revisions to the Town Lake Park Comprehensive Plan as it pertains to Zilker Park. (Councilmember Jackie Goodman)

**Motion**

Councilmember Goodman made a motion, seconded by Councilmember Reynolds to approve the resolution, minus further review of the "fencing, or alternatives to fencing, of the Garden Center".

**Friendly Amendment - Accepted**

Councilmember Nofziger offered a friendly amendment for the Planning Commission, the Parks and Recreation Board and the Environmental Board to solicit public input, comprehensively review and make recommendations by the end of June, 1994, rather than March. The amendment was accepted.

**Friendly Amendment - Accepted**

Councilmember Reynolds offered a friendly amendment to change the wording of the resolution to "Update of the Town Lake Park Comprehensive Plan, including Zilker Park, Town Lake and the Colorado River Park..... The amendment was accepted.

**Amendment to the Motion - Died for Lack of Second**

Councilmember Goodman offered an amendment to the motion to put fencing back in the motion. There was no second, so amendment to the motion died for lack of a second.

**Roll Call on Amended Main Motion**

5-0 Vote, Mayor Pro Tem Urdy and Councilmember Shea absent.

**ORDINANCES (See 14. for motions)**

13. Amend Ordinance No. 930915-A, the 1993-94 operating budget for the General Fund by reducing expenditures for Municipal Court and increasing transfers to the Capital budget by \$40,404, the 1993-94 operating budget for the Information Systems Fund by increasing the beginning balance by \$203,075 and increasing the transfer to the Capital Budget by \$203,000; amend Ordinance No. 920922-E, the 1992-93 Capital Budget transferring \$84,551 from the Municipal Court Telephone System to the Municipal Court Caseload Management System and by increasing the appropriation for the Municipal Court Caseload Management System by \$327,955 for a total appropriation of \$1,077,955. (Recommended by Planning Commission) [Related to Item 14]

**RESOLUTIONS**

14. Approve the negotiation and execution of a contract with INTERNATIONAL BUSINESS MACHINES CORPORATION (IBM), Camp Hill Pennsylvania, for the purchase and installation of a computerized Case Load Management System for Municipal Court, including software license and first year maintenance, in an amount not to exceed \$1,074,000, and negotiation and execution of a twelve (12) month contract with PROFESSIONAL COMPUTER SOFTWARE SERVICES (PCSS), Spartanburg, South Carolina, for the purchase of extended maintenance for the Judicial Enforcement management System (JEMS) software, in the amount of \$51,373, with four (4) one year extension options, in an estimated amount not to exceed \$54,573 for the second year, \$54,929 for the third year, \$55,282 for the fourth year and \$55,282 for the fifth year, for a total amount not to exceed \$271,439. (Funding was included in the 1993-94 amended Capital Budget for Municipal Court; funding for the professional computer software services maintenance contract, including extensions, is contingent on availability of funding in future budgets.) Best proposal of eight (8). No M/WBE Subcontracting opportunities were identified. (Related to Item 13)

Mayor Todd announced items 13 and 14 and asked for a motion and discussion of these items, together.

**Motion - DIED FOR LACK OF SECOND**

Councilmember Goodman made a motion to postpone to January 20, 1994. There was no second.

Mayor Todd asked for an explanation from Municipal Court Clerk Ron Zimmerman concerning the process.

### Motion

Councilmember Garcia made a motion, seconded by Mayor Todd to approve Phase I relating to items 13. and 14. Motion passed by a 4-0-1 Vote, Councilmember Reynolds abstained, Mayor Pro Tem Urdy and Councilmember Shea absent.

Councilmember Garcia asked if Councilmember Reynolds was abstaining on both items "because Item 13 is an Ordinance and needs five votes to pass".

Councilmember Reynolds stated: "I'm checking right now on a possible conflict. I just happened to catch this. They are supposed to be calling me back. If I do not have the conflict I could vote. That is the reason I was off the dais when all of this was taking place".

Mayor Todd asked City Attorney Granger, "Let me ask Legal a question, if Councilmember Reynolds has a conflict on Item 14 does it automatically make a conflict on Item 13, which appropriates the money?" Mrs. Granger said she was not sure and would check. Mayor Todd said the vote would be held until research could be done.

Later in the day....

### Motion to Reconsider Item 13

Councilmember Garcia made a motion, seconded by Councilmember Nofziger to re-consider Item 13. Motion passed by a vote of 4-0, Mayor Pro Tem Urdy and Councilmember Shea absent, Councilmember Reynolds out of the room.

Councilmember Garcia asked about the motion. Mayor Todd said it had been determined that Councilmember Reynolds had no conflict of interest and since Item 13 is an Ordinance, it needed five votes to pass on all three readings.

### Motion

Councilmember Nofziger made a motion, seconded by Councilmember Garcia to approve Item 13, waiving the requirement for three readings and finally passing an ordinance. 5-0 Vote, Mayor Pro Tem Urdy and Councilmember Shea absent.

Mayor Todd said Item 13 passed as an ordinance and Item 14 stands as previously voted.

Councilmember Reynolds stated: "I had to check to see if I had a conflict of interest. Actually the conflict of interest is for my

wife and there was no conflict. I appreciate your indulgence, but I am trying to be very careful."

15. Approve a request by the City's depository, Texas Commerce Bank, for the continued use of facsimile signatures of the City Manager and Director of Financial and Administrative Services for the signing of checks, drafts, or other payment orders as specified in the City Charter. (No fiscal impact.)
16. Authorize negotiation and execution of a three (3) year Interlocal Agreement with Texas A&M University Geochemical Environmental Research Group for laboratory analysis services for the Contaminated Sediment Grant Study, in an amount not to exceed \$40,000. (Funding is available in the 1993-94 operating budget of the Environmental and Conservation Services Special Revenue Fund.)
17. Authorize execution of an Interlocal Agreement with the Austin Independent School District for tutoring and mentoring services for students of Johnston High School and Mendez Middle School. (Funding in the amount of \$35,000 is available in the 1993-94 operating budget of Health and Human Services.)
18. Approve the negotiation and execution of a twelve (12) month contract with AUSTIN FAMILIES, INC., for the administration of the Child Care Voucher program, in the amount not to exceed \$194,000. [Funding is available in 19th Year (1993-94) Community Development Block Grant funds allocated by Council for the Child Care Voucher Program.] Sole proposal. No M/WBE subcontracting opportunities were identified. (Recommended by Community Development Commission)
19. Approve the filing of eminent domain proceedings to acquire a wastewater easement containing 7,418 square feet of land and a temporary construction easement containing 17,979 square feet of land out of A.J. Bond Survey No. 91 in Austin, Travis County, Texas, owned by Webb G. and Sallie L. Maddox for the Hilltop Acres Wastewater Phase II Project. (Estimated cost is \$1,675 - funding was included in the 1991-92 Capital Budget of the Water and Wastewater Utility.)
20. Approve execution of a contract with AUBREY D. LOWDEN CO., Lexington, Texas, for the silt abatement of the Morris Williams Golf Course irrigation pond, in the estimated amount of \$86,654. (Funding is available in the City's Flood Insurance Settlement Fund.) Single bid. 16.16% MBE, 0% WBE Subcontractor participation.

#15-20 on Councilmember Goodman's motion, Councilmember Nofziger's second, 5-0 Vote, Mayor Pro Tem Urdy and Councilmember Shea absent.

21. Approve amendments to existing professional service agreements for an Architectural Services Rotation List for the removal of architectural barriers in parks and recreation facilities in compliance with the Americans with Disabilities Act (ADA): THE BARR COMPANY, (MBE/WBE), Austin, Texas; E/H JOINT VENTURE, Austin, Texas; CASA BELLA ARCHITECTS (MBE), Austin, Texas; ARCHITECTURE + PLUS (WBE), Austin, Texas, for a period of two years, or until available funding is expended, in the amount of \$144,000 (estimated amount of approximately \$36,000 per firm). (Funding was included in the 1992-93 Capital Budget of the Parks and Recreation Department.)

On Councilmember Goodman's motion, Councilmember Nofziger's second, 4-0-1 Vote, Mayor Pro Tem Urdy and Councilmember Shea absent, Councilmember Garcia abstained.

22. Approve selection of ARCHITECTURE + PLUS (WBE), Austin, Texas, for negotiation and execution of a contract to provide architectural design and construction phase services for the Oak Hill Branch Library, in an amount not to exceed \$98,000. (Funding was included in the 1993-94 Capital Budget for the Library Department.) Best qualification statement of nineteen (19). 10% MBE, 22% WBE Subcontractor participation.
23. Approve execution of a construction contract award to W.K. JENNINGS ELECTRIC CO., INC., Austin, Texas, for airfield lighting and electrical vault improvements at Robert Mueller Municipal Airport, in the amount of \$393,588. (Funding was included in the 1993-94 Capital Budget for the Department of Aviation. Federal Aviation Administration grant participation is estimated to be \$295,191.) Low bid of three (3). DBE Subcontractor participation: 27.43% (10.7% MBE, 16.8% WBE).
24. Approve execution of a contract with DATASCOPE CORPORATION, Montvale,, New Jersey, for two (2) intra-aortic balloon pumps used to improve cardiovascular functioning during life-threatening emergencies, in an amount not to exceed \$56,250. (Funding is available in the 1993-94 operating budget of Brackenridge Hospital.) Low bid of three (3) meeting specifications. No M/WBE Subcontracting opportunities were identified.

#22-24 on Councilmember Goodman's motion, Councilmember Nofziger's second, 5-0 Vote, Mayor Pro Tem Urdy and Councilmember Shea absent.

25. Approve execution of contracts for the purchase of furniture for use in visitors and/or patient rooms at Brackenridge Hospital to the following vendors: WILSON BUSINESS PRODUCTS SYSTEMS & SERVICES, INC., Austin, Texas, for armchairs, in the amount of \$61,930; OFFICE PAVILION CORPORATE FURNISHINGS, Austin, Texas, for side chairs and hide-a-bed chairs, in the amount of \$54,747.94; and HILL-ROM COMPANY, INC., Batesville, Indiana, for overbed tables, in the

amount of \$77,832.51, for a total amount not to exceed \$194,510.45. (Funding is available in the 1993-94 operating budget of Brackenridge Hospital.) Low bid of two (2) for armchairs, and single bid for side chairs, hide-a-bed chairs and overbed tables. 2.31% MBE, 0% WBE Subcontractor participation.

Deleted

26. Approve execution of two (2) twelve (12) month supply agreements for miscellaneous lighting supplies for use by all City departments to the following vendors: LAMAR WHOLESALE SUPPLY, INC., Austin, Texas, in an amount not to exceed \$56,520.03; SUMMERS ELECTRIC COMPANY, Austin, Texas, in an amount not to exceed \$51,965.58, with one (1) twelve (12) month extension option for each agreement in an amount not to exceed \$56,520.03 and \$51,965.58 respectively, for a total amount not to exceed \$216,971.22. (Funding in the amount of \$81,364.14 is available in the 1993-94 operating budgets of user departments; funding for the extension options is subject to availability of funding in future budgets.) Low bids of fifteen (15). No M/WBE Subcontracting opportunities were identified.
27. Approve execution of a contract with INDUSTRIAL INTERNATIONAL, INC., Austin, Texas, for the purchase of 5,000 feet of eight (8) inch ductile iron pipe and 1000 feet of twelve (12) inch iron pipe for use by the Water and Wastewater Utility in the installation of new water lines, in an amount not to exceed \$47,010. (Funding is available in the 1993-94 operating budget for the Water and Wastewater Utility.) Low bid of two (2). No M/WBE Subcontracting opportunities were identified. (Recommended by Water and Wastewater Commission)
28. Set a public hearing to approve a license agreement for a 15 foot wide strip of land for a total of 4,890 sq. ft. (.112 acre) to allow the construction of a sewer to connect a proposed multi-family development to an existing sewer line located in parkland known as Gracywoods park in accordance with Sec. 26.001 of the Texas Parks and Wildlife Code. (Suggested date and time: February 3, 1994 at 6:45 p.m.)
29. Set a public hearing to amend Section 13-2-226 of the Land Development Code to authorize certain additional activities and use in the AV, Aviation District. (Suggested date and time: February 10, 1994 at 4:45 p.m.)

#### ITEMS FROM COUNCIL

30. Set a public hearing and consider an amendment to Chapter 12-5 of the City Code entitled "Smoking in Public Places" to prohibit

smoking in public places. (Suggested date and time: February 3, 1994 at 7:00 P.M.) [Councilmember Gus Garcia and Mayor Bruce Todd]

#26-30 on Councilmember Goodman's motion, Councilmember Nofziger's second, 5-0 Vote, Mayor Pro Tem Urdy and Councilmember Shea absent.

42. (Addendum) Review the status of overdue electric accounts and establish an appropriate policy. (Mayor Bruce Todd)

Motion

Councilmember Garcia made a motion, seconded by Councilmember Goodman to "1) When an individual or business enters into an agreement the time allotted should be no further than up to 18 months; and 2) When we enter into those agreements if, in essence, the person does not live up to that agreement, that staff consider, after looking at extenuating circumstances, whether to cut off electricity or come to a suitable new agreement". Motion passed by a vote of 5-0 with Mayor Pro Tem Urdy and Councilmember Shea absent.

There was further discussion concerning financial proof, amount of interest to charge and commercial accounts relating to apartment complexes. Councilmember Reynolds said this would affect many people if the utilities were shut off and wondered if the City has the ability to notify commercial and apartment tenants if something is subject to being turned off. Ms. Dunkerley said the City is required to send notices to the tenants seven days prior to termination. Councilmember Reynolds said he would prefer two weeks notice.

Betty Dunkerley, Director of Finance, told Council, "I will take the advice you have given today and draft specific guidelines to sent to UCSO to use in their procedure. I will circulate it to the City Manager and Council before I transmit it and see if you have any other comments you would like to add and you can do that at that time".

43. (Addendum) Amend Ordinance No. 930715-G to amend Part 4 regarding voluntary restrictions on solicitation and acceptance of financial contributions to campaign or officeholder accounts. (Councilmembers Gus Garcia and Jackie Goodman)

Motion

Councilmember Garcia made a motion, seconded by Councilmember Goodman "to change Part 4, leave Paragraph 1 as is and Paragraph 2 will read as follows: After January 14, 1994, no activities regarding the solicitation or acceptance of campaign contributions shall occur except for the six-month period prior to City Council



elections at which the Council Member stands for election.  
Motion passed by a vote of 5-0, Mayor Pro Tem Urdy and Councilmember Shea absent.

**4:00 P.M. - ZONING HEARINGS AND APPROVAL OF ORDINANCES**

31. C14-73-073 - PETER B. HALL, by Elizabeth W. Juen, Area bounded by U.S. 183, Rutherford Lane, Centre Park Drive. RESTRICTIVE COVENANT TERMINATION. Planning Commission Recommendation: To approve request to terminate the restrictive covenant.  
POSTPONE TO 2/10/93 Requested by applicant.

To be heard by the Planning Commission on January 4, 1994;  
Recommendation to Follow

32. C14-93-0153 - LEIF JOHNSON FORD, INC. (Robert Johnson), by CITY OF AUSTIN - Public Works Department (Ron L. Davis), 5500-5510 Burleson Road. From LI to P. Planning Commission recommendation to grant "P" zoning. 6-0.

**ORDINANCE**

On Councilmember Garcia's motion, Councilmember Nofziger's second, 5-0 Vote, Mayor Pro Tem Urdy and Councilmember Shea absent.

**PUBLIC HEARING AND APPROVAL OF ORDINANCES/RESOLUTIONS**

33. 4:30 P.M. - Appeals by Nancy B. Boll, Dianne E. B. Lynch, and Lydia Salas,, of the Planning Commission's decision to approve a request for a conditional use permit site plan for Joy Day Care, located at 5935 Cherry Loop. Public hearing closed Planning Commission recommendation upheld, so appeal denied.

**Motion**

The Council, on Councilmember Reynolds' motion, Councilmember Garcia's second closed the public hearing, 5-0 Vote, Mayor Pro Tem Urdy and Councilmember Shea absent.

**Motion - Died for Lack of Second**

Councilmember Goodman made a motion to approve Special Use Permit and limit to nine children. Motion died for lack of a second.

The appeal is denied because no motion was made to do otherwise.

**EXECUTIVE SESSION (No Public Discussion on These Items)**

Mayor Todd announced Council would enter into executive session to discuss items 39 and 40, which had not been reviewed during the executive session in his office the morning of this date.

**Pending/Contemplated Litigation - Section 551.071**

34. Discussion of Tommy Dollar, et al v. General Motors, Class Action No. 92-1089.
35. Discussion of City of San Antonio, Texas et al. v. Westinghouse Electric Corporation, Cause No. 90-5-00684-C, in the 23rd District Court of Matagorda County, Texas.
36. Discussion of Houston Lighting & Power Company v. City of San Antonio, et al., Cause No. 88-923-E, in the 101st District Court of Dallas County, Texas.

**Advice from Counsel - Section 551.071**

37. Discussion of ownership interest in South Texas Nuclear Plant.
38. Discussion of amendment to Chapter 5-7, Minority-Owned and Women-Owned Business Enterprise Procurement Program.  
Deleted
39. Discussion of status of Milburn Investments, Inc., et al v. City of Austin, et al; Cause No. 93-08464; in the 261st Judicial District Court of Travis County, Texas.

**Land Acquisition - Section 551.072**

40. Discussion of land acquisition to explore the feasibility of acquiring options to purchase sites for support of a downtown mall development, and/or a City Hall, and/or a Museum of Art, and/or future expansion of the Austin Convention Center.

**RECESS FOR EXECUTIVE SESSION-** Council recessed from 3:05 to 4:22 P.M. for executive session.

**ACTION ON THE FOLLOWING**

41. Approve a resolution directing the City Manager to explore the feasibility of acquiring options to purchase sites for support of a downtown mall development, and/or a City Hall, and/or a Museum of Art, and/or future expansion of the Austin Convention Center, and report findings to the City Council.  
Deleted

**ADJOURN** - Council adjourned its meeting at 5:07 P.M. on Councilmember Garcia's motion, Councilmember Reynolds' second, 5-0 Vote, Mayor Pro Tem Urdy and Councilmember Shea absent.

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